

REMARKS

This Amendment is filed in response to the Office Action dated February 25, 2003. Applicants initially note with appreciation the Examiner's thorough examination of the application as evidenced by the Office Action. Applicants highly commend the Examiner for providing an extremely thorough analysis of the claims and also for providing a clear road map for Applicants of the Examiner's thoughts with regard to patentability. Applicants further appreciate the Examiner's indication that Claims 4-6, 16, and 17 include allowable subject matter and that Claims 18-20 are patentable.

In light of these favorable indications, Applicants have rewritten Claims 4 and 8 into independent form to place them in condition for allowance. Further, Applicants have amended Claims 1, 2, 4-6, 8, 11, 12, and 18, cancelled Claims 3, 7, and 14-17, and added new independent Claim 21, as well as, amended Figure 1 of the application. Following these amendments, the application now includes independent Claims 1, 4, 8, 18, and 21. As discussed in detail below, Applicants respectfully submit that all of the claims of the application include recitations that patentably distinguish the claimed invention over the cited references, and as such, Applicants respectfully request reconsideration and allowance of the present application.

I. The Specification Is In Conformity

In paragraph 1, the Office Action noted several typographical errors in the specification. In light of these objections, Applicants have amended the specification herein to address these issues. Applicants respectfully submit that the specification is now in proper order.

II. Figure 1 is Now Correct

In paragraph 2, the Office Action noted that the trench was not properly labeled as 28. Upon closer inspection, Applicants note additional inconsistencies between the labels appearing in Figure 1 and the text concerning Figure 1. In light of this, Applicants have amended Figure 1. A copy of Figure 1 as amended and a red-lined version illustrating these amendments are enclosed herewith.

III. Omitted Claim 10

In paragraph 3, the Office Action noted that the original claims were misnumbered such that Claim 10 was omitted. Applicants have indicated this omission in the claim set reproduced above and note that Claim 10 was not inadvertently deleted when the case was filed, but instead the claims were merely misnumbered.

IV. Objected Claims

In paragraph 10, the Office Action indicated that Claims 4-6, 16, and 17 include patentable subject matter and would be allowable if rewritten in independent form. In light of these indications, Applicants have rewritten Claims 4 and 8 into independent form including all of the limitations of their base claims. Applicants thus respectfully submit that amended independent Claims 4 and 8, as well as the claims that depend respectively therefrom, are patentable.

V. Allowed Claims

Applicants note with appreciation the Examiner's indication that Claims 18-20 are allowed. Applicants have amended allowed independent Claim 18 to recite that the first face of the frame is at substantially the same angle offset from vertical as the attachment plate and that the opposed second face has a substantially vertical orientation. Applicants state that these amendments were not made to overcome any of the prior art, but were instead made to further clarify the claim.

VI. Amended Independent Claim 1 Is Patentable

Independent Claim 1 has been amended to recite that the attachment plate for connecting the frame of the digging implement to the transport vehicle is oriented at a permanently fixed angle offset from vertical such that said attachment plate faces downwardly at a fixed position. With regard to the angled offset of the attachment plate, the Office Action alleges that this recitation is obvious in light U.S. Patent No. 6,349,488 to Mason. Applicants admit that the '488

Mason patent discloses an attachment plate in a downward position. However, Applicants note that the attachment plate of the '488 Mason patent is not in a "fixed permanent position." It is instead movable in an up and down direction.

While this distinction may seem trivial, it actually is important to the claimed invention. Specifically, as described in the specification of the application, the attachment plate of the claimed invention is oriented at an angle offset from vertical such that the attachment plate faces downwardly. This downward facing of the plate allows the digging implement to be located closer to the ground thereby, having a lower profile that allows the implement to fit under existing structures.

The rotatable plate of the '488 Mason patent does not provide such an advantage. Specifically, it rotates between a level and a downward position during the digging process. When the digging implement is first moved to the spot to dig, the plate is rotated to almost a vertical position in the device of the '488 Mason reference. It is not until after digging begins, that the plate begins to rotate downward as the digging implement digs the trench. As such, the digging implement is not provided in a low-profile position as is accomplished by the claimed invention.

Further, the attachment plate of the '488 Mason patent could not be permanently fixed in a rotated position as is recited in amended independent Claim 1 of the present application. Specifically, if fixed in a permanently rotated position, the attachment plate of the '488 Mason patent would not allow the digging implement to dig a trench. Further, if fixed in a rotated position, it may actually increase the height of the digging implement prior to the digging implement actually beginning to dig the trench.

In light of the above, Applicants respectfully submit that neither the '488 Mason patent nor any of the other references, taken either individually or in combination, teaches or suggests an attachment plate oriented at a permanently fixed angle offset from vertical such that said attachment plate faces downwardly at a fixed position, as is recited in amended independent Claim 1. As such, Applicants respectfully submit that amended independent Claim 1, as well as the claims that depend therefrom, is patentable over the cited references.

VII. Newly Added Independent Claim 21 Is Patentable

Independent Claim 21 has been added to recite further patentable features of the present invention. Specifically, independent Claim 21 is essentially original independent Claim 7 with portions of dependent Claim 4 added thereto. Specifically, the Office Action indicates that dependent Claim 4 includes patentable subject matter. Applicants believe that there are portions of the recitations of Claim 4 that are patentable, notwithstanding the remaining recitations of Claim 4. Specifically, Applicants believe that a frame for connecting a digging implement to a transport machine where the frame comprises a pair of widthwise extending rails and at least one strut extending between the pair of rails is patentable in and of itself, as this recitation is not taught or suggested by any of the cited references. Applicants therefore request that newly added independent Claim 21 be found allowable.

Conclusion

In view of the amended claims, specification, drawing, added claim, and remarks presented above, it is respectfully submitted that all of the present claims of the application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

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Filed: November 13, 2001
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therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

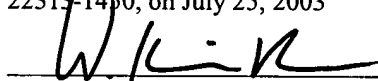


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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 25, 2003


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